DOCUMENT RESUME

ED 205 969 CS 206 471

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TITLE A Proposed Press Law and Responsibilities Teaching Unit for Secondary Schools.
PUB DATE Aug 81
NOTE 45p.; Paper presented at the Annual Meeting of the Association for Education in Journalism (64th, East Lansing, MI, August 8-11, 1981).

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Censorship; Constitutional Law; Educational Research; *Freedom of Speech; High Schools; *Journalism Education; *Legal Education; *News Media; Student Publications; *Student Rights; Teaching Guides; Units of Study
IDENTIFIERS *First Amendment

ABSTRACT

Prompted in part by recent survey results showing that Americans neither know nor care very much about the First Amendment to the Constitution nor the press's role in defending and exercising the rights it guarantees, a teaching unit was designed to increase students' understanding and appreciation of the First Amendment and its implied responsibilities. The three-week unit was fashioned in content and format by responses given by high school and university journalism educators to a survey concerning the teaching of press law in the secondary schools. Topics covered in the unit include (1) the premise and promise of a free press; (2) prior restraint, censorship, and government authority; (3) libel; (4) invasion of privacy and copyright; (5) confidentiality and free press/free trial; (6) obscenity, responsibility, and codes of ethics; (7) student rights and responsibilities; and (8) advertising and broadcast regulations. A content outline and lists of discussion questions and activities are offered with each topic. The unit concludes with compilations of pertinent court cases; a list of resources, such as the names of appropriate professional organizations and periodicals; and an annotated bibliography of press law materials. (The unit and an annotated list of resources are included.) (FL)

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A Proposed Press Law and Responsibilities Teaching Unit For Secondary Schools

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A paper presented to the Secondary Education Division

at the Association for Education in Journalism Convention

East Lansing, Michigan, August 1981

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A Proposed Press Law and Responsibilities Teaching Unit
For Secondary Schools

> "We pulled a quote last week because the English Department Chairman called all the students in a remedial class retarded, repasted the layout of our magazine totally because we couldn't get clearance from a boy's parents for him to pose for a silhouetted picture indicating that he was homosexual, and rewrote an article indicating the reporter knew a guy was stealing locks off lockers when the principal said he would suspend the reporter unless he revealed his source. And you want to know if I think students should be taught press law!"

The teacher who wrote this in response to a query last spring knows that there are practical as well as philosophical reasons high school students should know about freedom of speech, freedom of the press, responsibility and ethics. She and her students, who live with these concerns, no doubt understand and appreciate them.

But for other teachers and students—and for many reasons—the First Amendment is a historical document that has not come alive in their classrooms. There may be no journalism or mass media course offered. Where there is such a class, the accent may be on writing and production, with little time to devote to legal aspects of journalism. Advisers or English teachers assigned to teach such a course may not know much about press law[1] and have less interest or time to spend acquiring the necessary knowledge.

But the California adviser quoted above and respondents in recent public opinion surveys imply that free speech rights should not be considered a classroom luxury. As an Iowa adviser and teacher noted a few years ago, "(A) thorough background in press law lays the foundation for the building of responsible student journalists and a responsible journalism program."[2]

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[1]Alice Gagnard, "Who is the Typical Adviser?" Communication: Journalism Education Today, Summer 1981, p. 19.

[2]Carla Day, "Why Teach Press Law? Student Journalists Need to Know Their Limitations" Quill and Scroll, April-May 1977, p. 15.

The need to study press law in the high schools goes beyond the link between student publications and the journalism class. More courses prepare students to be better media consumers and communicating citizens than to be future journalists. With that in mind, the findings of a recent Gallup poll and a Public Agenda Foundation survey make the study of constitutional freedoms even more important.

Reports earlier this year of a two-year study by the Public Agenda Foundation revealed that the public opposes censorship of the media, but believes that the government should counter the increasing power of the media by enforcing a policy of fairness and responsibility. The powerful media have too much discretion, to the detriment of the free flow of ideas, the public said.[3] And a Gallup poll showed that three of every four Americans did not know what the First Amendment is, or even what it concerns. "Americans may be taking their basic freedoms, including freedom of the press, for granted," George Gallup, Jr., concluded.[4] If anything, the public has become more indifferent and hostile to the press, he added.

Lack of awareness, misconceptions, double standards, acceptance of further restrictions on the press and speech in America—these characteristics of today's citizenry prompted representatives of the media, education and legal profession to convene a First Amendment Congress early in 1980. Twelve resolutions were adopted to increase understanding and appreciation of the First Amendment—with youth as the focus of attention.[5]

The Society of Professional Journalists, Sigma Delta Chi, responded quickly to the challenge. One of its committees compiled and distributed a list of 42 activities that SPJ's professional and campus chapters could sponsor to increase

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[3]"Survey Shows Public Opposes Censorship." The Newspaper Fund Newsletter, April 1981, p. 3.

[4]"National Congress Resolves to Improve First Amendment Education for Youth." The Newspaper Fund Newsletter, March-April 1980, p. 3.

[5]Ibid.

First Amendment understanding.[6] The organization's Freedom of Information Committee in May issued a call for research to assess what has been or is being done to improve public understanding of press freedom, and asked for help in evaluating curriculum offerings concerning the First Amdnement.[7]

The press law and responsibilities unit proposed here stems from the need perceived by the First Amendment Congress and the personal belief that attention must focus on youth during their formative years in the secondary schools. It is unrealistic to expect a course on press law and responsibility, and some teachers prefer to incorporate law and ethics into discussions of other course topics rather than have a separate unit. Integrating law, responsibility, content and techniques can be valuable, but the long-term significance of First Amendment study justifies more concentrated attention—even if for a short time.

Seeking Practical Direction

This proposed unit is designed to help teachers in a variety of contexts. The content and format were guided by a survey last spring of high school and university journalism educators throughout the country—persons likely to be interested in, or teaching, press law in the secondary schools.

A two-page questionnaire was mailed in February 1981 to 250 journalism educators: 50 members of the Secondary Education Division of the Association for Education in Journalism; 75 members, including the leadership, of the Journalism Education Association; 50 award winners in the most recent Quill and Scroll competition; and 75 randomly-selected members of the Minnesota High School Press Association. (The author was teaching at St. Cloud, MN, State University when the survey was conducted.)

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[6]"Guidelines for Scholastic and College Publication Organizations: Educating About the First Amendment." By the Professional Chapter Activities Committee of the Society of Professional Journalists, Sigma Delta Chi. 1980.

[7]Letter of May 18, 1981, from Anne Nunamaker, University of Maryland, POI Committee Educational Liaison, Society of Professional Journalists, Sigma Delta Chi.

The unit outline came from the suggestions of the 129 respondents in 30 states. Respondents fairly evenly represented the four groups surveyed: 25 from AEJ, 33 from JEA, 27 from Quill and Scroll, 31 from MHSPA and 13 who did not complete the identification option. The objectives, topics, activities, format, texts and resources reflect the desires of most respondents. The lists of resources, questions, activities and cases were developed with the guidance of the survey results.

The unit has more questions, activities, resources and topics than could be part of a two- or three-week unit. The surfeit of material is meant to allow for flexibility and background information for those teachers who seek them.

Some information about the respondents may clarify the framework for this unit. The questionnaire went to those advisers and teachers most likely to have experience and interest in a press law unit. Indeed, most respondents had taught a high school journalism or mass media class (111 or 86%), and 118 (or 91.5%) had advised a school publication (36% the newspaper and yearbook; 30% the newspaper only). The respondents were experienced teachers and advisers: 76% of those who had advised had done so for six or more years; 17 (or 13%) had more than 16 years of advising experience.

Of the current high school teachers responding, 88 (or 94%) were from schools with a journalism or mass media course. Not surprisingly, 98% of all respondents either agreed or strongly agreed that law and responsibility should be part of a high school journalism or mass media course. Eighty-seven respondents (or 67%) said they had taught a law unit for high school students, most of them in high school but 32% in both high school and at a workshop.

Guidance Offered

Too much to cover in too little time. This was the complaint of many teachers who suggested ways to teach press law and responsibility. At least a half dozen

respondents said they do not teach a press law unit because of lack of time. A number of others said that the topic was incorporated. "I try to integrate these questions," one teacher wrote. "Law and ethics cannot be divorced from media techniques and practices."

Of the 90 respondents who said that they have taught a formal unit, 70% said it was no longer than two weeks and 87% said no longer than three weeks. Most--43%--said a week or less was spent on press law; 27% said one to two weeks; 17% said two to three weeks. Because of this, the proposed unit is planned for a two-week period, with topics that could be added if three weeks or more were allowed.

What <u>should</u> be taught and what <u>is</u> taught were revealed in two portions of the questionnaire...and pointed again to the problem of inadequate time. When asked to check from a list of 11 those topics that a law unit <u>should</u> deal with, 10 of the 11 were checked by more than half the respondents. When those who had taught a law unit were later asked to check those topics they covered, only four areas were checked by at least half the respondents.

Of the 127 respondents who said that a law unit <u>should</u> be taught, topics mentioned most often were:

student rights and responsibilities--99% of the respondents
libel (97%)
privacy (91%)
obscenity (86%)
confidentiality of sources (83%)
prior restraint (77%)
copyright (75%)
access to information (75%)
free press/fair trial (66%)
advertising regulations (55%)
broadcast regulations (32%)

The top four topics on the "should teach" list also led the "do teach" list, although in slightly different order. The topics covered by teachers who do teach press law, and the percentage of persons who mentioned each area, are as follows:

libel (87%)
privacy (63%)
student rights and responsibilities (63%)
obscenity (59%)
prior restraint (49%)
confidentiality of sources (45%)
copyright (47%)
free press/fair trial (34%)
access to information (32%)
advertising regulations (22%)
broadcast regulations (15%)

Complicating the ease and effectiveness of teaching a press law unit is the apparent dissatisfaction with current textbooks dealing with the topic. Of those survey respondents who have taught a law unit in high school, less than half (41 or 45%) did not use a text. Eighteen respondents wrote on the questionnaire statements such as "No text is as current as needed" or "There is no good overall text for high school students."

Also, many teachers must rely on the law and responsibilities portion of the textbook used in the journalism or media course. Some said that if they use a book that dealt only with press law, it was for person and not classroom use.

An interesting difference occurred between the books used by those who have taught a press law unit and books recommended for such a unit. When those who had taught a unit were asked to list the text they used, the ones mentioned most often, in order of frequency, were these:

Scholastic Journalism, by English and Hach
Libel, by Jerome Nelson
Press Time, by Adams and Stratton
Journalism in the Mass Media, by Moyes and White
Mass Media and the School Paper, by Reddick
Captive Voices, ed. by Jack Nelson
Manual for Student Expression, by the Student Press Law Center

When all respondents were asked to recommend books for such a unit, the resources recommended, in the order of times mentioned first, are as follows:

Student Press Rights, by Trager
Libel, by Jerome Nelson
Law and the Student Press, by Stevens
Manual for Student Expression, by the Student Press Law Center
Captive Voices, by Jack Nelson
Scholastic Journalism, by English and Hach
Mass Media and the School Paper, by Reddick

Because a general textbook is likely to be the students' primary resource during a press law unit, teachers should check this paper's annotated bibliography for supplemental resources that fit the time and topics of the press law unit and the instructor's knowledge.

Finally, survey respondents indicated which other resources they used to teach press law in the secondary schools. Only guests and periodicals were mentioned by more than half the respondents, but films, pamphlets, filmstrips and videotapes also were suggested.

Of the 77 respondents (60%) who said guests should be used in a law unit, 45 listed legal representatives such as attorneys or judges and 42 named local reporters or editors as worthwhile guests. More than three to one over any other publication recommended was the Student Press Law Center Report. Others mentioned at least six times were Scholastic Editor, Quill, Communication: Journalism Education Today, Quill and Scroll and School Press Review.

If there was consensus about the objectives of a press law unit, it was that student awareness of journalists' and students' rights and responsibilities be heightened. That general objective—in line with the recommendations of the First Amendment Congress—is incorporated into the unit that follows. The activities listed reflect those respondents recommended and the study questions focus on topics most often cited as worthy for a press law and responsibilities unit.

The Unit

GENERAL OBJECTIVE: The goal of this unit is to increase students' general awareness of and appreciation for the First Amendment. Students should understand that the First Amendment is essential to a free society, is an instrument of a vibrant and responsible professional and student press, and serves as a vehicle for becoming enlightened, contributing citizens.

SPECIFIC OBJECTIVES: To increase students' understanding of:

* the philosophy of freedom of speech and press
* all citizens' responsibilities to defend free speech and press rights
* the value of a free press and free speech to society and its citizens...and to the school and its students
* the growth of press freedom in America
* the current state of free speech and press rights, specifically in the areas of censorship/prior restraint, libel, privacy, confidentiality of sources, obscenity, copyright and free press/fair trial
* legal and ethical constraints on free speech and free press
* application of the First Amendment to the high school--its students, staff and publications

OUTLINE:

I. Introduction: Premise and Promise of a Free Press
II. Prior Restraint/Censorship and Government Authority
III. Libel
IV. Invasion of Privacy and Copyright
V. Confidentiality and Free Press/Fair Trial
VI. Obscenity, Responsibility and Codes of Ethics
VII. Student Rights and Responsibilities
VIII. Advertising Regulations (optional)
IX. Broadcast Regulations (optional)

CONTENT OUTLINES:

I. INTRODUCTION: PREMISE AND PROMISE OF A FREE PRESS

A. The seed is planted early; growth of the marketplace of ideas
   1. John Milton
   2. John Locke
   3. John Stuart Mill
   4. John Peter Zenger

B. Authoritarianism, licensing...and the backlash of libertarian thinking

C. Free speech rights are recognized
   1. Philosophy acknowledged in 1919 Supreme Court decision (Abrams v. U.S.)
   2. States can't deny due process or withhold constitutional protection

D. A broad public right. Freedom of press...but also freedom to distribute pamphlets, give speeches, picket, use vulgar language, support other governments, and wear armbands or long hair.

E. But the First Amendment is not absolute
   1. Public supports the idea of a free press...but not limitless freedom
   2. Courts have agreed

F. Role of the courts: arbiters and interpretors
   1. Roles of other branches of federal government...and judicial branch
   2. Overview of state and federal courts
      (a) Levels of the court
      (b) Appeals process
      (c) Number of cases heard

G. Application to the high school--its students and teachers
   1. Students have free speech rights (Tinker v. Des Moines)
   2. And so do teachers (James v. Board of Education)

Discussion Questions

1. What does a free press contribute in a democratic society? Who benefits? How and why?

2. How do editorials and editorial page content reflect the extent of a free press? In what ways can they contribute to or detract from the exercise of free speech?

3. The U.S. Supreme Court has argued in recent years that the news media deserve no special privileges--only what the public and its other citizens enjoy. Discuss this in terms of access to government--its operations, proceedings and institutions--and the role of the press in America.

4. How do freedom of speech, freedom of the press, and government control of the media in the United States compare with freedom and regulation in other countries? Where differences exist, why?

5. The local League of Women Voters is sponsoring a public meeting of all candidates for school board two weeks before the election. After the meeting has been announced, and just before filing for board seats closes, a former teacher who is a homosexual and an outspoken supporter of gay rights announces his candidacy. There is pressure both to cancel the public forum or refuse to permit the former teacher to participate. Are there any constitutional rights that assure all candidates a chance to participate in the forum? What free speech arguments might be made to allow participation? (Examination question: Write an editorial that explains and defends your position.)

6. After discussing the Tinker case, ask students if it would be different if a teacher were the one wearing the armband...and told not to. What if students were wearing "White Power" buttons to school during tense days of white/black hostility and fighting?

7. Select excerpts from Captive Voices for discussion and evaluation with regards to the purpose and value of the student press.

Activities

1. Assess and possibly compare/contrast editorials that are run by your local newspaper and area radio and television stations. (You may want to include the student newspaper, too.) How do the editorials succeed in performing the role of a free press?

2. Check television listings and have students watch episodes of "Lou Grant" as springboards to discussion.

3. Role-play the U.S. Supreme Court case of Tinker v. Des Moines, having students prepare and present the arguments of the justices who wrote opinions in the case. Then the entire class can assess the case's significance.

4. Pose a hypothetical question (or questions) concerning freedom of speech, e.g., the right of a person to have access to government information about himself or herself; a person's right to speak in public about an unpopular or embarrassing topic; a student's right to distribute an alternative newspaper right outside the building after school; a local newspaper's right to print any four-letter word it wants; the right of a principal or adviser to censor material that might embarrass the school. Conduct a survey of students and teachers and use the results for class discussion of legal awareness and understanding. If your survey covers several of these topics as brief questions, try to determine issues or constitutional rights that need more attention and discuss your conclusions and recommendations with editors of the student and local newspapers and with appropriate teachers.

5. Check with or visit your state Supreme Court. Many have useful pamphlets that describe the structure, purpose and procedures of the state's judicial system. Compare and contrast this court with a municipal or district court in your area.

II. PRIOR RESTRAINT/CENSORSHIP AND GOVERNMENT AUTHORITY

A. Blackstone in England in 1760s said punish some, but don't prevent any speech

B. This philosophy has not been too popular, especially by government
   1. Alien and sedition laws of 1797-98
   2. Espionage Act of 1917 and 1918 (brought First Amendment question to the Supreme Court)
   3. Also, governmental opposition to distribution of literature, speaking in public, marching...and via gag orders on the press, movie censorship boards, screening by the CIA.

C. This is 50th anniversary of historic 1931 case of Near v. Minnesota
   1. Discuss racionale for no prior restraint
   2. Context and significance of this case
   3. Not absolute protection
   4. Government uses qualifications to restrain later

D. Public's aids to openness in government
   1. Freedom of Information Act
   2. Open Meetings Laws
   3. Open Records Laws

E. Courts have made justification for censorship narrow...with burden on censor
   1. Procedural safeguards and appeals process needed
   2. Cases to consider
      (a) Pentagon Papers (New York Times v. U.S.)
      (b) Hydrogen bomb plans (U.S. v. Progressive)
      (c) Seeking alternatives to censorship (Nebraska Press Assn. v. Stuart)
      (d) Information as public record (Oklahoma Publ. Co. v. District Court)
      (e) Information public already has (Smith v. Daily Mail)

F. Censorship problem in the high schools
   1. Same procedural safeguards for due process apply
   2. Burden again is on censor...and mere discomfort is not enough reason
   3. Few cases have been upheld, but some exceptions
   4. Today a new arena--libraries and textbooks (Bicknell v. Vergennes Union H.S.)

Discussion Questions

1. What does the local newspaper contribute to your community and to its citizens... and the student newspaper to your school and its students?

2. What limits, if any, should be placed on the content of the news media, specifically in terms of editorials, letters to the editor, news stories, columns and feature stories? How would or should such limitations be enforced?

3. What benefits come from the media's freedom to criticize government? What limitations are there to those freedoms? What dangers result from such criticism?

4. Should there be laws that force the media to perform responsibly? Why or why not?

5. Debate the merits and drawbacks of secrecy by government, from the views of elected officials and the media--both acting as servants of the people.

6. Was there a way to avoid the predicament the newspapers faced in the Pentagon Papers case...or when the government argues for restriction of material said to be a threat to national security? Is the public ever served by the publication of material said by the government to be "top secret"?

Activities

1. Go through today's newspaper and watch a network or local television news show. Determine which news stories likely would not be permitted if the federal and state governments had the power to censor the news. What proportion of the newspaper or newscast? What news topics are most affected? Why?

2. Investigate your state's status on open meetings and open records laws. Are there such laws? What do they say? What limitations are there? Any penalties? How aware of these laws are public and school officials? What do local reporters think of them? Are the laws adhered to in your community? And if no such laws exist, ask your state representative or senator why not.

III. LIBEL

A. Greatest fear (and perhaps greatest danger and liability), but much protection exists for the careful communicator

B. Rationale for libel protection; justification for prior restraint?

C. Definition of actionable libel...via word, photo, layout, headline, etc.
   1. Defamation or harm to reputation
   2. Publication
   3. Identification
   4. Fault (negligence to malice) (Herbert v. Lando as corollary in terms of state of mind of reporter or editor

D. Defenses or mitigating circumstances
   1. Truth
   2. Qualified privilege
   3. Fair comment and criticism
   4. Absence of fault or negligence (New York Times v. Sullivan; Gertz v. Welch)
      (a) Public officials
      (b) Public figures
      (c) Private individuals (Hutchinson v. Proxmire)
   5. Other factors to consider
      (a) Statute of limitations
      (b) Consent
      (c) Self-defense
      (d) Retraction
      (e) Double-meaning words or phrases

E. Libel in the high school setting
   1. Teachers, students, administrators, student government (Henderson v. Kaulitz)
   2. Who is liable
   3. Newspaper, yearbook, magazine concerns

Discussion Questions

1. What is the difference between a retraction and a correction? Which is more important after a libelous statement has been printed? Why?

2. A reporter overhears a high school baseball coach give such a tongue-lashing to one of his players that the youth is reduced to tears. The reporter relays the incident to the sports columnist, who writes a column criticizing the coach's apparent insensitivity and says that anyone with no more compassion than that should not be coaching. The editor tells the columnist to notify the coach before the item is printed. The coach neither confirms nor denies his actions, but says that if the column is printed he will sue for libel. If this were the local daily newspaper and you were the editor, would you print the column item? Why or why not? What defense, if any, do you have in a libel suit? Would this be handled differently if the school newspaper were involved instead? Why?

3. How would you caution your newspaper's reviewer of movies, plays and books so as to avoid any possible libel suits, yet retain the reviewer's ability to evaluate the product and performers involved? Would you have any different advice for the writers of your student newspaper's sports column?

4. The editor of the student newspaper wants to encourage a more open exchange of ideas among readers, but to avoid legal problems wants to print a statement on the editorial page that says, "The opinions expressed in the letters to the editor are those of the writer and not the staff of this newspaper." The editor reasons that such a disclaimer makes the writer, not the newspaper, responsible for any libelous statement printed. Is this correct? Why or why not?

5. Mike Simpson, former director of the Student Press Law Center, has said that more legal problems for the student newspaper come from April Fool's Day editions than from any other single thing. Why are these publications likely to cause so much trouble?

Activities

1. Try to find examples of material that potentially libels or invades the privacy of a person or material that is irresponsible or a distortion of the truth. Be prepared to discuss your examples and defend your reasoning ...or write a brief report...or discuss the examples in small groups.

2. Find old copies of yearbooks—those with captions or "clever" sayings beneath the individual pictures. Discuss which sayings are potentially libelous.

3. Ask the editors and advisers of the school yearbook and newspaper and local news media representatives to provide examples of potentially libelous material that they have received. Use these (with identification removed, of course!) for class discussion. Exchange papers also may provide material that is ethically or legally irresponsible...or very well handled.

4. Have the class write reviews of a local play or concert, a movie, a popular book, a television show or a record. See that some students cover local or school events, and that all reviewers are specific and include constructive but critical comments. Discuss the results in terms of fairness and the libel defense of fair comment and criticism.

5. Prepare a fact sheet that includes potentially libelous statements, e.g., a crime story where a person arrested is referred to as the "thief" or "rapist"; a personality story that quotes someone saying that so-and-so "never did a day of honest work in his life"; an accident story that quotes the dead person's father saying, "My girl would be alive today if that doped up fool had stayed off the road." Have students write a news story and then discuss the results in terms of libel.

If time permits and a separate section is not planned, this would be an opportune time to incorporate a discussion of BROADCAST REGULATION, noting that libel pertains to broadcast as well as print, but that because of Federal Communications Commission regulations, broadcast outlets may at times be free of liability. See the outline on pages 23 and 24.

IV. INVASION OF PRIVACY AND COPYRIGHT

A. Akin to, but distinct from, libel
   1. Privacy rationale: peace of mind and the right to be left alone
   2. Offensive activity does not have to involve printing, publishing or libel
   3. Guide to journalists: use legal or ethical means of obtaining newsworthy information

B. Legal considerations and defenses
   1. Newsworthy event or person--may protect when personal facts tend to otherwise embarrass
   2. Consent
      (a) When gathering news in a private place (hospital room, home, etc.)
      (b) When using person's picture or name or likeness for commercial gain
   3. Public records or court proceedings released to the public legally (See Oklahoma Publishing Co. v. District Court)
   4. False--but not defamatory--information about a person may be protected if released without actual malice (Time v. Hill)

C. Ethical considerations
   1. Private lives of public figures
   2. Public sentiment via increasing loss of privacy in society
      (a) Computers easily and cheaply gather information about our lives
      (b) Buckley Amendment helps protect students' right of privacy
   3. Other high school concerns
      (a) Students' records
      (b) Advertising for publications
      (c) Misrepresentation to get a story
      (d) Newsworthy standards may be more narrowly defined for high school than for the professional press

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If no special section is planned, time might profitably be spent now discussing COPYRIGHT, which concerns property rights of individuals akin to the personal rights of privacy. The link between consent needed for advertisements that may infringe on a person's privacy and consent needed to use a copyrighted figure,

slogan or label should be noted. When discussing copyright, it is essential that the Fair Use considerations written into the 1976 Copyright Act be discussed, since the four main criteria should guide decisions of whether copyright law pertains to a specific situation involving the media. Those four considerations are:

1. Purpose and character of the use
   —Is the use for information or for commercial gain?
2. Nature of the work
   —Is the borrowed item a commercial or educational/scholarly creation?
3. Protion used
   —How much of the original work is being used?
4. Effect on market value
   —Would your use cause the copyright holder financial loss?

Discussion Questions

1. Cite instances where the local newspaper, radio station or TV station faces the threat of an invasion of privacy suit? What threatening situations exist for those working for the student media?

2. What are some general guidelines to offer a reporter who is worried about invading the privacy of persons while reporting?

3. Under what circumstances is the photographer of your local or school newspaper free to photograph people without fear of invading their privacy? What limitations are there? Do different criteria apply for photographers than for reporters?

4. Your school yearbook wants to include characters from the "Peanuts" comic strip on the division pages. Would it be an infringement of copyright law for the students to use blow-ups of the characters without getting permission? Why or why not?

5. Can you cite examples of borrowed material that can be used in a newspaper without infringement of copyright? Explain the circumstances.

Activities (See Libel section)

V. CONFIDENTIALITY AND FREE PRESS/FAIR TRIAL

A. As a journalistic ethic, the belief in keeping confidences is one long held
   1. Felt it is a way to get people to talk, thus obtaining needed information
   2. Promises must be kept, so journalists keep their credibility with sources
   3. But reporters go to jail arguing this, and have for some time. Why?
   4. How is the public served or hurt by confidentiality of sources?

B. The U.S. Supreme Court has said no special privileges for the media (See Houchins v. KQED)
   1. If a grand jury calls, reporters must respond (Branzburg v. Hayes)
      (a) Conflict with rights of accused...and need for every person's testimony
      (b) States or Congress might act to protect journalists, Court said.

2. Shield laws (none at federal level; some states have them)
   (a) Usually there are exceptions that require disclosure
      (1) When likely that journalist has information pertaining to a felony, and
      (2) When that specific info is needed in the given circumstance, and
      (3) When only the journalist is able to provide the needed information
   (b) Shield laws inhibit, but have not always worked; not absolute
3. Penalty? Contempt of court
   (a) Jail until source revealed
   (b) And/Or a fine
4. Can seek information from journalist in two ways:
   (a) Subpoena to appear before grand jury or in court (Branzburg v. Hayes)
   (b) Search warrant (Zurcher v. Stanford Daily)

C. Link to students and school publications
   1. Shield laws often do not apply to student publications
   2. Ethics should be considered: Is confidentiality essential or just easy?
   3. Potential costs and benefits for student publications must be weighed

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The topic of FREE PRESS/FAIR TRIAL did not rank high among the press law topics taught or suggested by the survey respondents. If time and interest exist, however, it is appropriate to relate the legal and ethical ramifications of this issue to discussion of confidentiality. The following questions/issues could be examined:

A. Clash of two constitutional rights—First Amendment right of free speech and Sixth Amendment right to a speedy and public trial.

B. Again, as with confidentiality, this is an ethical question for the media.

C. Value to the public and the defendant in having open courts and no gag orders
   1. Defendant's right to public assurances of constitutional rights
   2. Public scrutiny of the governmental process assured.

D. Attempts to preserve First and Sixth Amendments
   1. Guidelines by press and bar
   2. Procedural safeguards (via Sheppard v. Maxwell)
      (a) Change of venue
      (b) Sequestering
      (c) Continuance
      (d) Mistrial
      (e) Voir dire
   3. And the least desirable option—gag orders
      (a) Possible...but should be last option (Nebraska Press v. Stuart)
      (b) Can be used for pre-trial hearings (Gannett v. DePasquale)
      (c) But only a last resort for trials (Richmond Newspapers v. Virginia)

E. Closing the courtroom to cameras
   1. Rationale
      (a) Decorum
      (b) Pressure on participants
      (c) Push by American Bar Association
   2. Bad experiences have made judges and attorneys uneasy (Estes v. Texas)

3. Many states have experimented and/or adopted guidelines to allow cameras
4. Recent change of thinking by the U.S. Supreme Court allows cameras (See Chandler v. Florida)
5. Movement to cameras in legislature, Congress, state courts, local government

F. What about minors?
1. Restrictions on what can be covered about minors
2. If names acquired as the public would, and legally, OK (Smith v. Daily Mail) or if in open court (Oklahoma Publ. Co. v. District Court)

Discussion Questions

1. Does your state have a shield law that protects reporters' confidential sources? If so, what qualifications are tied to it? Does it apply to student journalists?

2. A reporter for your local newspaper has interviewed and quoted in a story someone who is selling heroin to high school students. After the story is printed, the reporter is subpoenaed by a grand jury and told to reveal her source. The reporter refuses, saying that she promised the source confidentiality. Debate both sides of this ethical and legal question. How would it likely be resolved if it went to court in your state?

3. The local newspaper (or your school paper) decides to report the court proceedings of a case involving a former high school custodian and three 15- and 16-year-olds charged with operating a burglary ring.
(A) What will you be able to report and what will you not? Why?
(B) What advice would you give to the reporter assigned so the newspaper does not get sued for libel?
(C) How can the newspaper provide coverage of the study without endangering the rights of the accused to a fair trial?

4. Is there ever a time when the names of minors should be reported in a crime-related or court-related story? Discuss the circumstances and reasons.

5. John Hinckley was wrestled to the ground and arrested before a national television audience after his alleged assassination attempt on President Ronald Reagan. What is the responsibility of the media in balancing the rights of the public to be informed of this news event and the constitutional right of Hinckley to be considered innocent until found guilty in court?

6. Based on the circumstances of the Sam Sheppard trial and its outcome, what advice can you give to a judge presiding at a sensational trial involving a case like the Atlanta child murders or the assassination murder of ex-Beatle John Lennon? What could or should be done to assure that the accused in those cases get a fair trial?

7. What are the advantages and disadvantages of permitting still cameras and TV cameras in the courtroom? Is the rationale any different when the question concerns cameras in the meeting rooms of the School Board? the City Council? the State Legislature? the Congress?

Activities

1. Have students read All the President's Men, by Woodward and Bernstein, and then see the movie. Compare and contrast...or discuss the principles raised in either of these works, especially concerning the use of Deep Throat as the unnamed source.

2. Take your class to court. Familiarize students with what is there, and where, and after the session arrange to visit with the presiding judge, who can give his views of responsible news coverage of the judicial process and answer questions about the rights and responsibilities of journalists, or what went on that day in court.

3. Find out how local attorneys, judges and television reporters feel about allowing cameras in the courtroom. The U.S. Supreme Court in 1981 said that states could allow cameras in the courtroom without automatically jeopardizing the rights of the defendant (Chandler v. Florida). Are cameras allowed in your state's courtrooms? If so, are there limitations?

4. Show the videotape of the Ronnie Zamora trial (contact the ABA in Chicago) and use it to trigger discussion of cameras in the courtroom and the reporting of juvenile offenders.

5. Assess the coverage of a trial in your area as reported in a local or regional newspaper or on television. Ideally, follow the coverage during the trial, analyzing reports immediately. As part of your analysis of the fairness of the coverage, see if you can anticipate the outcome of the trial before it is announced. Otherwise, assess whether the verdict is fairly well reflected in the coverage that preceded it.

VI. OBSCENITY, RESPONSIBILITY AND CODES OF ETHICS

A. Obscenity is not protected by the constitution, the Supreme Court said in 1957. Why?

B. Problem is in defining what is and is not obscene
   1. Historically, it was the "tendency to corrupt"--Hicklin Standard (1868)
   2. Anthony Comstock made himself heard in 1873 via the Post Office
   3. The Supreme Court entered the fray in 1957 to begin 20 years of standard-setting and revision
   4. Now...application of standards set in 1973 (Miller v. California)
      (a) Average person must provide basis for judgment
      (b) Contemporary community standards apply
      (c) Dominant theme must be considered
      (d) Work as a whole must be considered
      (e) It must appeal to prurient interest
      (f) And it must have no serious literary, artistic, political or scientific value

C. Problems arose in the definition
   1. Different standards could be applied for children (Ginsberg v. New York)
   2. The work must be patently offensive--or akin to hard core sexual matter
   3. There can be no infringement on one's personal privacy rights

D. Definition within the high school setting
   1. "Dirty words" are not in and of themselves obscene (Papish v. Bd. of Curators)
   2. Different standards exist for children, and some discretion given to administrators to define personal harm (Trachtman v. Anker)
   3. And discretion when selecting or cutting school materials (Bicknell v. Vergennes Union H.S.)

E. Responsibility of the media is an important consideration
   1. How does the public react to media content in poor taste?
   2. The allegedly obscene or questionable material must add to the story to make its use worth the risk
   3. Responsibility is not mandated by the constitution; obligations differ for print and broadcast media
      (a) Print—not a requirement; no legal pressure
      (b) Broadcast—Fairness Doctrine requires an indication of responsibility
   4. Libertarian Theory...and what it says about responsibility
      (a) Marketplace of ideas: truth will out; free enterprise notion
      (b) Self-regulation via codes of ethics
   5. Social Responsibility Theory—since Hutchins Commission in 1947
      (a) Print media have balked for fear of more government intervention and a Fairness Doctrine for the print media
      (b) Some media have responded (via ombudsman, reader's rep), minimizing pressure for governmental intervention
      (c) Responsibility is linked to credibility

Discussion Questions

1. Do the local newspaper, radio and TV stations adhere to a code of ethics? Which ones? Are there any noticeable violations of these codes? Any obvious positive results?

2. What value is there to a news medium that adopts a code of ethics?

3. What are examples of "bad taste" in photos? Can you think of photos that are legally all right to print, but that would do the newspaper more harm than good by printing?

4. Is there a censorship board or a set of guidelines for evaluating the acceptability of movies shown in your community? What criteria are used? If such a board exists, what service does it provide?

Activities

1. Assess responsibility of the media by selecting a current topic in the news—e.g., an election, the Middle East crisis, a local or state government issue—and collecting news articles, monitoring broadcast news coverage and assessing any publication bias.

2. Divide the class into groups of two-member teams. Give each team a hypothetical legal or ethical problem. Have the students discuss the case from all sides and report to the class on the various questions raised, possible alternatives, and solutions. (The Student Press Law Center Report has excellent examples that are, unfortunately, not hypothetical.)

3. Write a newspaper editorial policy or a code of ethics. Either work separately and compare the results; work in groups to draft different portions or fewer versions for comparison; have half the class prepare one for the school newspaper and the other half do one for the local paper, or one for print and the other for broadcast, then compare the results. If the class is separate from the student publication, compare the results with the existing policy statement of the newspaper, offer the class version to the newspaper for consideration or arrange to present the results to the principal, superintendent or school board for reaction.

VII. STUDENT RIGHTS AND RESPONSIBILITIES

A. Tinker v. Des Moines sets the tone
   1. Value of a free student press to students and to school
   2. Students do have constitutional rights, and not just on school-sponsored publications (Papish v. Bd. of Curators)
   3. Rights are not absolute, but person who restricts those rights has the burden of proof to justify suppression
   4. Differences between professional and student media
      (a) Traditionally, courts kept hands off the schools; officials should know best, courts felt
      (b) Roles of student media vary...and are self-determined
         (1) Historical record
         (2) Forum for student ideas
         (3) Laboratory experience
      (c) Audience consists largely of minors; some variable standards
      (d) Many operate from powerless position, with accent on procedural guidelines or policy statements to acquire rights
      (e) Belief--though arguable--that school administrator is akin to publisher of a professional paper

B. Applications to the student press (The following could be incorporated into discussions of earlier topics or could serve as a review in a different context.)
   1. Prior restraint/censorship
      (a) Permissible for material that is
         (1) Obscene (if definition met; seldom is) (See Reineke v. Cobb County School District; Jacobs v. Bd. of School Commissioners)
         (2) Libelous
         (3) Potentially disruptive of the educational process (Thomas v. Granville School District)
      (b) Burden is also on the censor--or adviser/principal/school board (See Frasca v. Andrews)
      (c) Procedural safeguards needed; due process (Nitzberg v. Parks)
      (d) Not absolute (except in the 7th Circuit--Indiana, Illinois and Wisconsin via Fujishima v. Board of Education)
         (1) Insubordination justifies punishment for action
         (2) Can't be merely upset with content (Gambino v. Fairfax County)
         (3) Review can be OK and restriction of time, place and manner of distribution (Eisner v. Stamford Board of Education)
      (e) An alternate form of censorship: killing the publication altogether

2. Libel—feared, but few cases in high schools
   (a) Unlike professional press, more likelihood to see justification to censor for libel potential--though seldom upheld in court
   (b) Sometimes "obscenity" argument used when fear is that of libel
   (c) Teachers and students as public or private persons (Henderson v. Kaulitz)
3. Privacy
   (a) Cases from court proceedings or trials are OK, as with professionals
   (b) Privacy cited as peripheral issue when sex questionnaires are thought to be too specific and intimate (Trachtman v. Anker)
   (c) Advertising concerns in terms of person's photo or name without OK
4. Confidentiality of sources
   (a) There may be no shield protection for student journalists
   (b) No other special treatment for student journalists
   (c) Ethics and value questions on need for confidentiality
5. Obscenity
   (a) Since no legal protection, many attempts at restraint here
   (b) Variable obscenity is a factor with young people
   (c) University case went to Supreme Court on this, with infringement defeated regarding an underground newspaper (Papish v. Bd. of Curators)
   (d) Fear of obscenity or indecency not a justification; disruption needed (Reineke v. Cobb County School District; Jacobs v. Bd. of School Commissioners)
6. Advertising regulation
   (a) Much discretion to refuse to accept commercial advertisements
   (b) When publication stresses public forum function and issue coverage, right to refuse issue advertising may be limited
   (c) Cases to consider: Zucker v. Panitz; Lee v. Board of Regents
   (d) But ads for illegal or harmful products may be restricted (Williams v. Spencer)

D. Responsibility—a way to minimize problems and confrontations
1. Administrators do have powers—if there is a threat to educational process
   (a) Insubordination can justify prior restraint...as punishment
   (b) Can establish time, place and manner guidelines, uniformly administered
   (c) Can shift advisers to other duties if legitimate need
   (d) Can cut out publication altogether if not as punishment for content
   (e) Do not have to wait until school is disrupted to curb danger
   (f) In questionable circumstances, discretion given to administration by the courts
2. Limits
   (a) "Forum for ideas" papers: harder to restrict content...or to deny access to readers and advertisers
   (b) Private schools have more discretion to censor and restrict
3. Avoiding problems via guidelines
   (a) Be as specific as possible; see models
   (b) Allow for give-and-take, responsibilities as well as rights
   (c) Incorporate procedural rights of due process
   (d) Boards of Publication can help

Discussion Questions

1. What are the advantages and disadvantages of an adversary relationship between the news media and government? Could the analogy--with similar advantages and disadvantages--be applied to the high school "society" and differences of opinion between the student media and school administration?

2. What are the advantages and disadvantages to a school newspaper that has adopted a policy statement or a set of procedural guidelines? Should such a policy or set of guidelines be for staff use and knowledge only or to share with and seek the support of readers and administrators? Why or why not?

3. Under what circumstances is libel likely to occur in a high school newspaper? in the yearbook? How can the threat be minimized?

4. Is the principal or superintendent the "publisher" of the student newspaper the same way an owner is the publisher of a daily or local newspaper? What differences and similarities are there? What have the courts said about this? What does this mean in terms of freedom of speech and press--both for the professional and student press?

5. There is a break-in overnight at the high school and $500 worth of damage is done to the administration's offices. The principal says that she does not think that this should be reported in the school newspaper. If you agree, why? If you disagree, how would you convince the principal?

6. As a local reporter (or a reporter for the student newspaper), you are told at a meeting of the School Board that you cannot be present for the discussion about purchasing equipment for the next school year. The board argues that the best interests of the public will not be served if everyone knows what and how much equipment must be purchased. What steps can or should you take to get the board to change its mind? What reasons would you give for your action?

7. In a spring issue, the student newspaper runs a photo of a nude sunbather lying face down on a local beach. The editor and adviser are told that all copy and photos for future issues must be brought to the assistant principal, who will eliminate such "obscene" material before publication.
   (A) As the editor, evaluate the pro's and con's of the use of such a picture.
   (B) Would such a photo be considered "obscene" if it appeared in a high school newspaper? Why or why not?
   (C) Is prior review by the assistant principal legally permissible in this instance? Why or why not?

8. The student newspaper during the past year has printed stories about pollution of the environment, registration for the draft, unwed mothers, drug use by students and the poorly stocked library. Now a person representing a new student group called Voice of the Moral Majority approaches the editor and asks to place an ad calling for the withdrawal of 75 objectionable books from the library. What legal or ethical obligations do you have to run the advertisement?

Activities

1. Draw up a Bill of Rights for students, covering the areas of freedom of speech, freedom of assembly, freedom of the press and right of petition.

2. Read and report on a magazine article about law as it affects the student media, as reported in one of the scholastic journalism publications.

3. Collect editorial policies from exchange newspapers, or from area daily and weekly newspapers. Compare and contrast these.

4. The high school principal says that he thinks the student newspaper has become too devil-may-care and starting next year he will want to see all copy before it goes to the printer. As an alternative, you suggest writing a statement of rights and responsibilities that the School Board would be asked to endorse, and that the staff would then follow. The principal agrees. See samples from area schools, the Student Press Law Center and possibly your state's Department of Education and then prepare this document. Bring it to the board for action or reaciton.

5. Have a panel discussion with the school principal, a school board member, a parent, an editor...and perhaps the adviser. Discuss the roles of the student media, legal and ethical considerations and strategies for avoiding problems. The school's attorney, a professional journalist or a representative of the American Civil Liberties Union also could be part of this panel.

VIII. ADVERTISING REGULATIONS (optional)

A. Courts take a hand in this, but much self-regulation and monitoring by the Federal Trade Commission (like the FCC with broadcasting)

B. Legal power
   1. Print can refuse any ad...as a private enterprise
   2. Broadcast media have more restrictions, especially via political ads

C. Early view of ads
   1. Commercial ads were thought to be unworthy of constitutional protection, of less value than political or "idea" speech
   2. Later, ads said to serve people too, even commercial ads...so protection

D. Protection for advertising today via the constitution
   1. If the service or product is legal, protection afforded (Bigelow v. Virginia)
   2. Potentially harmful or illegal products not protected, most recently in terms of a student press case (Williams v. Spencer)

IX. BROADCAST REGULATIONS (optional)

A. Role of Federal Communications Commission (since Communications Act of 1934)
   1. See that public airways are filled with servants of the public (Fairness Doctrine as guide)
   2. Regulate the crowded airways via licensing of radio, television, cable

B. Defining "public interest, convenience and necessity" has been a problem (See FCC v. Pacifica)

C. Fairness Doctrine interpreted by the FCC and applied to broadcast media
   1. Controversial issues
   2. Personal attack
   3. Editorializing

D. Equal Time provision—for political content
   1. Limited editorial discretion
   2. Protection from libel cases

E. Comparison of performance of print and broadcast media in terms of regulation or lack of it.

Discussion Questions (Advertising and Broadcast Regulation)

1. What right does your local newspaper have to refuse to accept advertisements from political candidates? to endorse a political candidate?

2. When and why is there less discretion for the radio and television station regarding political advertisements? political endorsements?

3. What is the role of the Federal Communications Commission? What powers does it have? How does the freedom of the broadcast media differ from that of the print media? What is the effect of this difference in freedoms?

Activities (Advertising and Broadcast Regulation)

1. Invite a local radio or television person to discuss legal and ethical constraints, with specific reference to Federal Communications Commission regulations and the National Association of Broadcasters code of ethics.

2. The Communications Act of 1934 said that to retain their licenses broadcast stations are to air material that is in the public's interest. The Federal Communications Commission has had to assess how well broadcasters meet that obligation. Write a paragraph or a short essay that describes your interpretation of broadcast content that is in the public's interest. Or have half the class write a statement on how this can be interpreted for broadcast and half on how a newspaper might interpret this obligation. Compare the results.

3. Check with the advertising managers of local or area newspapers, radio and television stations about their policies regarding the content of ads. Ads of what type or for what products are not allowed? Why? What does state law say about what can and cannot be advertised? Does your student newspaper have similar guidelines?

X. OVERVIEW

Unit Guests

1. Invite a local attorney, the school's attorney or a judge to discuss such topics as:
   - the rights and obligations of the media in courtroom coverage;
   - acceptable and unacceptable behavior by the media in reporting legal proceedings;
   - advice to journalists—or student journalists—that would keep them free of legal problems
   - the rights of student journalists, and the limits and responsibilities that accompany these rights
   - advantages and disadvantages of cameras in the courtroom
   - interpretation of the state's open meetings law and open records law, if they exist in your state

2. Ask a newspaper editor and a radio or television news director to discuss such topics as:
   - libel—major concerns, parts of their work that are most susceptible to libel, safeguards they have
   - policies on the acceptance of gifts, free tickets, special favors
   - coverage of crime and the courts so as to protect rights of the accused and minimize threat of libel or invasion of privacy
   - policies on open meetings and public records--how the media deal with attempts to deny the press access to those
   - pressures from the community or advertisers that may influence, slant or restrict the flow of information
   - ethical policies/codes that are followed, specifically regarding the use of offensive language or content thought to be in bad taste

3. Ask a newspaper or broadcast news reporter to discuss such topics as:
   - (those listed above, from the perspective of the reporter)
   - restraints placed on the reporter by the paper/station management
   - policies of the newspaper or station that the reporter finds unethical... or that the reporter would like to see the medium adopt
   - the value of the First Amendment
   - circumstances when the reporter should and should not reveal a source... or promise the source confidentiality in the first place

4. Invite a journalism law professor from an area college to discuss legal topics related to the professional or student media. Other area advisers might be able to contribute, too.

5. Discuss the above topics with two or more of these guests at the same session

Concluding Activities

1. Use cases in the bibliography or recreate situations described in the Student Press Law Center Report and role-play as participants in legal controversies.

2. Role-play ethical dilemmas with students as adviser and administrator, as reporter and editor, as government official and reporter or editor.

3. Use press law controversies reported in the daily news media, in Editor and Publisher, Broadcasting, News Media and the Law, and the SPLC Report. For those controversies that have not yet been resolved, have students develop arguments on both sides and role-play the case with students as jurors, judge and attorneys.

4. Ask students to either prepare material for or suggest a topic to the media related to the First Amendment. This could be a story, cartoon, letter to the editor or guest editorial for the school or local newspaper, a guest editorial or public service announcement for radio, or a tip that could inspire the news media to do their own stories.

5. Conduct a survey of the student body to determine how aware they are of their constitutional rights as citizens--of the Bill of Rights. Use this as a basis for discussion of public awareness of the law and the constitution and the ramifications of that for journalists, other citizens and society.

6. Survey the public regarding its perceptions of the Bill of Rights and accompanying responsibilities. Determine public attitudes in general to constitutional rights...and public response to specific hypothetical situations. Compare the results of public or student attitudes regarding the Bill of Rights in general and specific applications of those rights.

Evaluation

The preceding discussion questions and activities are designed to help evaluate student awareness and understanding of unit content.

Related Court Cases

(These are the cases referred to in the unit outline and appropriate for corollary study. Summaries of most of these cases are available from these sources: The Student Press Law Center (for student press-related cases); Mass Media Law, rev. ed., by Pember; The Idea of Liberty: First Amendment Freedoms, by Starr; and Mass Communications Law in a Nutshell, by Zuckman and Gaynes.)

I. Historical and Theoretical Introduction
- Abrams v. United States, 250 U.S. 616 (1919)
- Tinker v. Des Moines Ind. School Dist., 393 U.S. 503 (1969)
- James v. Board of Education, 461 F.2d 566 (2nd Cir. 1972)
- Houchins v. KQED, 438 U.S. 1 (1978)

II. Prior Restraint/Censorship and Government Authority
- Near v. Minnesota, 282 U.S. 691 (1931)
- New York Times v. United States, 403 U.S. 713 (1971)
- Nebraska Press Assn. v. Stuart, 427 U.S. 539 (1976)
- Smith v. Daily Mail Publ. Co., 99 S.Ct. 2667 (1979)
- U.S. v. Progressive, 467 F. Supp. 990 (E.D.Wis. 1979)
- Bicknell v. Vergennes Union H.S., 638 F.2d 438 (2nd Cir. 1980)

III. Libel
- New York Times v. Sullivan, 376 U.S. 254 (1964)
- Gertz v. Welch, 418 U.S. 328 (1974)
- Herbert v. Lando, 441 U.S. 153 (1979)
- Hutchinson v. Proxmire, 99 S.Ct. 2675 (1979)
- Henderson v. Kaulitz, 6 Med.L.Rptr. 2409 (6th Cir. 1981)

IV. Invasion of Privacy
- Time v. Hill, 385 U.S. 374 (1967)
- Oklahoma Publ. Co., v. District Court, 430 U.S. 308 (1977)

V. Confidentiality of Sources
- Branzburg v. Hayes, 408 U.S. 665 (1972)
- Zurcher v. Stanford Daily, 436 U.S. 547 (1978)

VI. Free Press/Fair Trial
- Sheppard v. Maxwell, 384 U.S. 333 (1966)
- Gannett v. DePasquale, 99 S.Ct. 2898 (1979)
- Richmond Newspapers v. Virginia, 100 S.Ct. 2814 (1980)
- Estes v. Texas, 381 U.S. 532 (1965)
- Chandler v. Florida, 101 S.Ct. 802 (1981)

VII. Obscenity
- Ginsberg v. New York, 390 U.S. 629 (1968)
- Miller v. California, 413 U.S. 15 (1973)
- Papish v. Bd. of Curators of the University of Missouri, 410 U.S. 667 (1973)

VIII. Student Rights and Responsibilities (Censorship in Schools)

Eisner v. Stamford Bd. of Education, 440 F.2d 803 (2nd Cir. 1971)
Jacobs v. Bd. of School Commissioners, 490 F.2d 601 (7th Cir. 1973), dismissed as moot, 420 U.S. 128 (1975)
Fujishima v. Bd. of Education, 460 F.2d 1355 (7th Cir. 1972)
Nitzberg v. Parks, 525 F.2d 378 (4th Cir. 1975)
Gambino v. Fairfax County School Board, 429 F. Supp. 731 (E.D.Va. 1977), aff'd. 564 F.2d 157 (4th Cir. 1977)
Trachtman v. Anker, 563 F.2d 512 (2nd Cir. 1977)
Frasca v. Andrews, 463 F. Supp. 1043 (E.D.N.Y. 1978)
Thomas v. Granville School District, 607 F.2d 1043 (2nd Cir. 1979)
Reineke v. Cobb County School District, 484 F. Supp. 1252 (N.D.Ga. 1980)

IX. Advertising Regulations

Bigelow v. Virginia, 95 S.Ct. 2222 (1975)
Zucker v. Panitz, 299 F. Supp. 102 (S.D.N.Y. 1969)
Lee v. Bd. of Regents, 441 F.2d 1257 (7th Cir. 1971)
Williams v. Spencer, 622 F.2d 1200 (4th Cir. 1980)

X. Broadcast Regulations

FCC v. Pacifica Foundation, 438 U.S. 726 (1978)

RESOURCES

Organizations

American Bar Association, 1155 East 60th Street, Chicago, IL 60637

Columbia Scholastic Press Association and Columbia Scholastic Press Advisers Association, Box 11, Central Mail Room, Columbia University, New York, NY 10027

Journalism Education Association, Att.: Lois Lauer Wolfe, Box 99, Blue Springs, MO 64015

National Scholastic Press Association, University of Minnesota, 720 Washington Ave. S.E., Minneapolis, MN 55414

The Newspaper Fund, P.O. Box 300, Princeton, NJ 08540

Student Press Law Center, 917 F Place, N.W., Washington, D.C. 20001 (202) 347-7154. The SPLC is a national, nonprofit organization providing legal assistance and information to student journalists and faculty advisers experiencing censorship or other legal problems.

Student Rights Organizations. Annotations for a dozen national organizations devoted exclusively to student rights are printed in the February 1977 issue of the Student Press Law Center Report.

Quill and Scroll, School of Journalism, University of Iowa, Iowa City, IA 52240

Publications

Columbia Journalism Review, published bi-monthly by the Graduate School of Journalism, Columbia University, 700 Journalism Building, Columbia University, New York, NY 10027

Communication: Journalism Education Today, published quarterly by the Journalism Education Association, Box 99, Blue Springs, MO 64015

CSPAA Bulletin, published quarterly by the Columbia Scholastic Press Advisers Association, Box 11, Central Mail Room, Columbia University, New York, NY 10027

Journalism Quarterly, published quarterly by the Association for Education in Journalism, School of Journalism, University of South Carolina, Columbia, SC 29208

News Media and the Law, published five times a year by The Reporters Committee for Freedom of the Press, summarizing state and federal cases affecting the news media. Issues are $2 each from News Media & the Law, 1125 15th Street, N.W., Room 403, Washington D.C. 20005

Quill, published monthly by the Society of Professional Journalists, Sigma Delta Chi, 35 East Wacker Drive, Chicago, IL 60601

Quill and Scroll, published bi-monthly during the school year by the Quill and Scroll Foundation, School of Journalism, University of Iowa, Iowa City, IA 52242

Scholastic Editor, published monthly September through May, 720 Washington Ave. S.E., University of Minnesota, Minneapolis, MN 55414

School Press Review, published monthly October through May, Box 11, Central Mail Room, Columbia University, New York, NY 10027

Student Press Law Center Report, published three times yearly by the Student Press Law Center, 917 F Place, N.W., Washington, D.C. 20001. Yearly subscriptions: $5 for students, $10 for nonstudents, schools, libraries.

Books and Articles (*--asterisk indicates resource of particular use to teachers)

Adams, Julian, and Kenneth Stratton. Press Time, 3rd ed. Englewood Cliffs, NJ: Prentice-Hall. 1975. This 489-page textbook devotes much space to the student press, including a 15-page chapter on "Responsibility of the School Newspaper" and sections on "Freedom of the Student Press" and "What Regulates the Press?" Activities and discussion questions, but an old bibliography.

"Administrative Control of Student Publications." A Legal Memorandum published by the National Association of Secondary School Principals in March 1978. This 10-page discussion concludes with recommendations to administrators regarding control of the student press.

Aldrich, Ann, and JoAnne Sommers. "Freedom of Expression in Secondary Schools." Cleveland State Law Review. Vol. 19, No. 1 (January 1970), pp. 165-176. An excellent testament for free speech in the wake of the Tinker decision.

Allnutt, Benjamin W., ed. Springboard to Journalism, rev. ed. New York: Columbia Scholastic Press Advisers Association. 1973. This popular 96-page paperback for training newspaper staffs includes a chapter on "Legal Rights and Responsibilities of Scholastic Publications," by Robert Trager.

*"Amendment I: Free Press and a Free Society," Teaching with Newspapers: A Newsletter for Methods Instructors. Vol. 3, No. 1 (November 1980). An excellent 12-page newsletter devoted entirely to the First Amendment with questions, activities, case summaries, resources. Available from the American Newspaper Publishers Association Foundation, Box 17407, Dulles International Airport, Washington, D.C. 20041.

An Open Press. A 48-page paperback published in 1977 by the National News Council, One Lincoln Plaza, New York, N.Y. 10023. It includes essays and columns by leading media critics working for American news organizations.

Arnold, Edmund C. and Hillier Krieghbaum. Handbook of Student Journalism. New York: New York University Press. 1976. A 335-page "guide for staff and advisers" that includes a 17-page chapter on "Law and Student Journalists." A good overview of scholastic press law to 1976. No bibliography.

Ashley, Paul P. Say It Safely: Legal Limits in Publishing, Radio and Television, 5th ed. Seattle: University of Washington Press. 1976. A 252-page introductory textbook.

*Berger, Fred R. Freedom of Expression. Belmont, CA: Wadsworth Publishing Co. 1980. A 207-page paperback that "surveys some of the theoretical and practical problems that arise in connection with freedom of expression." The collection of essays begins with John Stuart Mill, touches on the obscenity controversy and discusses symbolic speech. The landmark Tinker v. Des Moines Supreme Court decision is printed here.

Bibliography: Newspaper in Education Publications, 3rd ed. Washington, D.C.: American Newspaper Publishers Association Foundation. 1980. A 56-page annotated collection of more than 100 teacher guides and curriculum materials. Single copies free from ANPA, Box 17407, Dulles International Airport, Washington, D.C. 20041.

Bickel, Robert D. "Legal Rights and Responsibilities of Students." The Florida Bar Journal. Vol. 53 (December 1979), pp. 660-671. A general discussion of philosophy.

Birmingham, John, ed. Our Time Is Now. New York: Bantam Books. 1970. This 274-page paperback, although dated, offers an interesting collection of student writings from alternative high school newspapers.

Bowen, John. "An Important Decision." Communication: Journalism Education Today. Vol. 14 (Summer 1981), pp. 7-10. A philosophical discussion of concerns when dealing with a controversial issue, with suggested steps to take during the process.

Boyer, John H. "Court Upholds Newspaper Suppression." Scholastic Editor. Vol. 59 (April-May 1980), pp. 29-32. Discussion of Frasca v. Andrews, a U.S. District Court case in New York that upheld suppression of a high school newspaper.

Cary, Eve. What Every Teacher Should Know About Student Rights. Washington, D.C.: National Education Association. 1975. A 41-page booklet with a section on "Freedom of Expression" and a good, though general, bibliography.

Clark, Todd. Fair Trial/Free Press. Riverside, NJ: Glencoe Publ. Co. 1977. This 72-page book uses discussion questions and case studies to examine the conflict between two constitutional rights.

Code of Student Rights and Responsibilities. This booklet from the National Education Association "explores the rights and responsibilities of students and the causes of student unrest; develops a definitive statement on student rights and responsibilities; designs action programs to ensure that the basic rights of students are not jeopardized."

"Concerning Student Publications: A Report and A Statement of Opinion." A Legal Memorandum from the National Association of Secondary School Principals in April of 1977 that defends the administration's prior restraint in the Gambino v. Fairfax County School Board case.

Consoli, John. "Student Editors Punished for Editorial Viewpoint." Editor and Publisher. April 19, 1980, pp. 16, 38. This summary of the free press controversy at Baylor University is a good trigger to discussion of how the First Amendment can be applied differently at private and public schools.

Crump, Spencer. Fundamentals of Journalism. New York: McGraw-Hill Book Co. 1974. A 269-page paperback textbook with an 11-page chapter on "Ethics and Libel." The libel portion is dated, but the chapter also deals with invasion of privacy and free press/fair trial.

*Day, Carla. "Why Teach Press Law? Student Journalists Need to Know Their Limitations." Quill and Scroll. Vol. 51 (April-May 1977), pp. 15-17. Philosophy and proposed content for the study of press law in high school.

Diamond, Priscilla. "Interference With the Rights of Others: Authority to Restrict Students' First Amendment Rights." Journal of Law and Education. Vol. 8, No. 3 (July 1979), pp. 347-358. This examination of the Trachtman v. Anker case, which supported school officials' suppression of a sex questionnaire in a New York high school, includes a reproduction of the controversial questionnaire.

Diamond, Sandra. "Newspapers and Law-Related Education." A 41-page curriculum guide for high school students available from Diamond, Newspaper in Education coordinator for the St. Louis Post-Dispatch/Globe Democrat. It is based on testing through a pilot project involving 26 St. Louis public school teachers and their students. Completed early in 1981.

Divoky, Diane, ed. How Old Will You Be In 1984? New York: Avon Books. 1969. Another book from a different era, this 350-page paperback is subtitled "Expressions of Student Outrage from the High School Free Press." Besides samples of student writings under the general headings of "The Schools," "The Students" and "The Society," there is a provocative 20-page document that offers a critique of a Maryland school system.

Dowling, Ruth, Nancy Green and Louis E. Ingelhart. Guidelines for Journalism Instructional Programs and Effective Student Publications. DeKalb, IL: Association for Education in Journalism. 1977. A 30page booklet with a section entitled "First Amdnement Considerations" and a bibliography.

English, Earl, and Clarence Hach. Scholastic Journalism, sixth ed. Ames, IA: The Iowa State University Press. 1978. This textbook includes exercises with each chapter, including "Canons of Journalism and Press Criticism," "Standards of Good Newspaper Practice," "Newspaper Evaluation," "Evaluating Motion Pictures" and "Standards of Good Broadcasting."

Eveslage, Thomas. "Student Press Law: What Lies Ahead?" The School Press Review. Vol. 56 (May 1980), pp. 10-12. An update of the legal status of press rights issues affecting student publications and a look at trends.

Fager, Christopher B. "Ownership and Control of the Student Press: A First Amendment Analysis." Communication: Journalism Education Today. Vol. 10 (Winter 1976), pp. 12-14. Fager argues that schools are not analagous to commercial publications, with principal as publisher, and he advocates a public forum approach to student press law cases.

_____. "Public or Private--Status Often Determines First Amendment Protection." Communication: Journalism Education Today. Vol. 11 (Fall 1977), p. 3. Good overview of how the First Amendment is applied differently in the private school than in the public school.

Feldman, Samuel. The Student Journalist and Legal and Ethical Issues. New York: Richards Rosen Press, Inc. 1968. A dated, pre-Tinker overview of student press rights. The 186-page book has no bibliography.

Ferguson, Donald L., and Jim Patten. Journalism for Today. Skokie, IL: National Textbook Co. 1972. A 244-page paperback with a five-page chapter entitled "Law, Ethics and You."

Flygare, Thomas J. "John Tinker: Still an Idealist." Phi Delta Kappan, (November 1979), pp. 210-212. This interesting historical piece ten years later looks back on the landmark Tinker v. Des Moines case, with insight from John Tinker, then a student involved in the controversy.

_____. Legal Rights of Students. Bloomington, IN: Phi Delta Kappan Educational Foundation. 1975. This 50-page pamphlet is part of PDK's Fastback series.

"Freedom of the Press." A special section on the First Amendment in the February-March 1980 issue of Today's Education (Vol. 69, No. 1). Includes "Courts and the Media--Freedom of the Press on Trial," by Ninth Circuit Court of Appeals judge Alfred Goodwin and Lynn Taylor (pp. 46-51); "Walter Cronkite and the Supreme Court" (pp. 52-55); and "What About the Student Press?" by Michael Simpson, former director of the Student Press Law Center (pp. 59-64).

Garcia, Mario R. The New Adviser, second ed. New York: Columbia Scholastic Press Advisers Association. 1978. This 48-page paperback includes a chapter entitled, "Law/Ethics" that deals with libel, "good taste" and photography and the law.

Gilmore, Gene, ed. High School Journalism Today, second ed. Danville, IL: Interstate Printers & Publishers, Inc. 1976. Three of the 21 chapters in this 127-page book are "The Press in a Democratic Society," "Avoiding the Censor" and "The Law and the School Editor."

Gora, Joel. Rights of Reporters: The Basic ACLU Guide to a Reporter's Rights. New York: Discus Books. 1974. A 254-page paperback.

Hager, Marilyn. "Codes of Ethics and the High School Newspaper." Scholastic Editor. Vol. 58 (December 1978-January 1979 and February 1979). Focuses on how and why to develop a code of ethics, conflict of interest, advertising and content.

Haimen, Franklyn S. Freedom of Speech. Skokie, IL: National Textbook Co. 1978. A 221-page text that incorporates free speech cases in a discussion of freedom of the press.

Hentoff, Nat. The First Freedom: The Tumultuous History of Free Speech in America. New York: Delacorte Press. 1980. This 340-page book by a proponent of student rights includes an opening 54-page chapter on the rights of students, teachers and librarians.

_____. "Making the First Amendment as Real as Sex." The Civil Liberties Review. March-April 1978, pp. 51-54. Argues that students are becoming more willing to go to court in defense of their First Amendment rights.

Hulteng, John L. The Messenger's Motives: Ethical Problems of the News Media. New York: Prentice-Hall. 1976. Examines some 200 situations involving ethics as applied to all the mass media. Instructor's manual is available and cases are offered for student discussion in this 262-page paperback.

"Implementing Ideas of the First Amendment Congresses." A list of 56 activities proposed by the Society of Professional Journalists, Sigma Delta Chi, with the goal of increasing public awareness of and support for the First Amendment. Activities are directed at professional and campus chapters of this society, but some ideas can be adapted to the classroom. Prepared in September 1980 by SPJ,SDX, 35 E. Wacker Drive, Chicago, IL 60601.

"J-Teacher and the Law." Regular feature of Communication: Journalism Education Today, these articles are written by the director of the Student Press Law Center.

Kemerer, Frank F., and Kenneth L. Deutsch. Constitutional Rights and Student Life. St. Paul, MN: West Publishing Co. 1979. This 735-page book, with an accompanying instructor's manual, is more comprehensive than most teachers will need or want. But the sections on freedom of speech for public school students and on regulating student expression, and the chapter discussing in depth the student suspension case of Goss v. Lopez are interesting.

*Law and the Courts: A Layman's Handbook of Court Procedures, with a Glossary of Legal Terminology. Published in 1980 by the American Bar Association as a reference for non-lawyers, this 36-page booklet is available for 50 cents from the ABA...and a bargain.

Laybourne, Kit, and Pauline Cianciolo, eds. Doing the Media, rev. ed. New York: McGraw-Hill Book Co. 1978. This 212-page paperback is subtitled "A Portfolio of Activities, Ideas and Resources" for classroom teachers. Although it focuses on film, television, sound and photo activities for the classroom, the 35-page "Resources" section, with annotated bibliography and descriptions of reference sources and organizations, is excellent.

Letwin, Leon. "Administrative Censorship of the Independent Student Press--Demise of the Double Standard?" South Carolina Law Review. Vol. 28, No. 5 (March 1977), pp. 565-585. Examination of how prior restraint applies to the professional media and the student press, with arguments for similar applications in the two settings.

Levine, Alan, Eve Cary and Diane Divoky. The Rights of Students: The Basic ACLU Guide to a Student's Rights. New York: Avon Books. 1973. A 160-page paperback guide.

*Manual for Student Expression: The First Amendment Rights of the High School Press. Washington, D.C.: The Student Press Law Center. 1976. A 30-page booklet written "to provide students, teachers, and administrators with a guide on the First Amendment problems most frequently presented by student journalism."

Maurer, Diana J. "High School Press Freedom." Freedom of Information Center Report No. 381, November 1977, from the School of Journalism, University of Missouri at Columbia. This seven-page report "surveys the current state of affairs in high school journalism, with particular attention to recent court interpretations of how the First Amendment applies."

McGiffin, Via B., and L. Lorraine Suprunowicz. Guidelines for Creative Yearbook Journalists. Algonac, Mich.: National Yearbook Publications, Inc. 1974. A 272-page textbook in yearbook journalism that includes a good but somewhat dated chapter on "The Yearbook and the Law."

Moran, K. D., and M. A. McGhehey. The Legal Aspects of School Communications. Topeka, Kansas: National Organization on Legal Problems of Education, 5401 Southwest Seventh Avenue. 1980. A 105-page paperback by officials of the Kansis Association of School Boards, offering chapters on "Freedom of Student Expression," "Employee Communications" and "Communications and the Public." Appendices include a model publication policy, distribution guidelines and a newspaper policy statement.

Moyes, Norman B., and David Manning White. Journalism in the Mass Media. Boston: Ginn and Company. 1970. A 522-page textbook with a 26-page chapter entitled "Social Responsibility of Journalists," activities and a bibliography at the end of the chapter and useful appendices that include codes of ethics and codes for the various mass media.

*Nelson, Jack. Captive Voices: The Report of the Commission of Inquiry Into High School Journalism. New York: Schocken Books. 1974. A controversial paperback that raises important questions about the freedom and responsibility of high school journalism and its proponents.

Nelson, Jerome L. Libel: A Basic Program for Beginning Journalists. Ames, IA: Iowa State University Press. 1973. An 89-page paperback text that includes hypothetical cases, review quizzes and discussion questions.

"N.J. High School Adviser Protects Student Reporter." Editor and Publisher. April 4, 1981, p. 34. Good recent case for the application of confidentiality of sources to the high school publication environment.

Note. "Beyond the Schoolhouse Gate: Protecting the Off-Campus First Amendment Freedoms of Students." Nebraska Law Review. No. 3 (1980), pp. 790-807. Examines the 1979 Second Circuit Court of Appeals ruling, Thomas v. Board of Education, regarding restraint of off-campus student publications.

Note. "Obscenity, Profanity and the High School Press." Willamette Law Review. Vol. 15, No. 3 (Summer 1979), pp. 507-529. An update and overview.

____. "Prior Restraints in Public High Schools." The Yale Law Journal. Vol. 82 (May 1973), pp. 1325-1336. Good philosophical discussion of the U.S. Supreme Court's thinking and the early aftermath of Tinker.

____. "Prior Restraint of Student Newspaper Questionnaire Permitted to Prevent Significant Psychological Harm." St. John's Law Review. Vol. 52 (Winter 1978), pp. 265-274. Concerns the Second Circuit Court of Appeals's Trachtman v. Anker decision.

____. "Public Forum Theory in the Educational Setting: The First Amendment and the Student Press." University of Illinois Law Forum. Vol. 1979, pp. 879-913. Relates questions of access to a forum for ideas and arguments against prior restraint.

____. "Schoolbooks, School Boards, and the Constitution." Columbia Law Review. Vol. 80 (June 1980), pp. 1092-1124. On censorship pressures in schools.

____. "Tinker's Legacy: Freedom of the Press in Public High Schools." DePaul Law Review. Vol. 28 (Winter 1979), pp. 387-428. Overview and update.

Offer, David B. "Wisconsin Officials, Journalists to Establish Press Guidelines." Reprinted from The Quill in Quill and Scroll, December-January 1979, p. 20. Result is "Proposed Guidelines for Free and Responsible Student Journalism," prepared under the direction of Robert Wills, editor of the Milwaukee Sentinel.

Orleans, Jeffrey. "What Johnny Can't Read: 'First Amendment Rights' in the Classroom." Journal of Law and Education. Vol. 10 (January 1981), pp. 1-15. Concerns book censorship.

Pearson, George. "How Free Should Student Publications Be?" NASSP Bulletin. September 1971, pp. 50-58. Good philosophical discussion of the value of a free student press.

*Pember, Don R. Mass Media Law, second ed. Dubuque, IA: Wm. C. Brown Co. 1981. A 513-page textbook that is probably too comprehensive for classroom use in the high school. A current, complete and readable resource for the teacher of media law, but does not cover student press law.

Phelps, Robert H., and E. Douglas Hamilton. Libel: Rights, Risks, Responsibilities, rev. ed. New York: Dover Publications, Inc. 1978. This 436-page paperback is a detailed examination of libel.

Pullen, Rick D., and Pat Rasmussen. "The Stark Reality of the 1977 California Education Code and Student Press Freedom." Paper presented to the Secondary Education Division at the Association for Education in Journalism convention in August 1980 at Boston, Mass. Examines prior restraint activity in California schools two years after legislation was passed that offered some protection for student journalists. (Copies of the law and model publication code are printed in the February 1978 issue of JEA's Newswire.)

*Quill. Special First Amendment Issue of September 1976 with articles on such topics as the evolution of free speech and press philosophy and current threats to that freedom, with significant First Amendment court cases summarized. The 40page magazine is available for $1 from the Society of Professional Journalists, 35 E. Wacker Drive, Chicago, IL 60601.

Rasmussen, Pat. "Privacy: The Right to be Let Alone." Communication: Journalism Education Today. Vol. 14 (Fall 1980), pp. 17-18. Good update of the right of privacy, with special application to the student media.

Reddick, DeWitt C. Journalism Exercise and Resource Book: Aids for Teaching High School Journalism. Belmont, CA: Wadsworth Publishing Co., 1981. This 268-page paperback is designed to accompany Reddick's The Mass Media and the School Newspaper, but can be used independently. Little on press law per se, but good page of questions/activities on freedom and responsibility.

_____. The Mass Media and the School Newspaper. Belmont, CA: Wadsworth Publishing Co. 1976. A 440-page textbook with a 66-page teacher's manual. Included in the "Mass Media in Modern Society" section is a 16-page chapter entitled "Dynamic Duo: Freedom and Responsibility," with suggested activities.

Russell, Sandra W. "Censorship: Pressure or Perception Creates Chilling Effect." Quill and Scroll, Vol. 48, February-March 1975, pp. 18-19. Interesting reports of taboo topics that lead the author to conclusions about self-censorship.

_____. "Freedom of the Press: Status and Implications of First Amendment Theory for the High School Press. Quill and Scroll. Vol. 49, December-January 1975, pp. 6-9.

*Sanford, Bruce W. Synopsis of the Law of Libel and the Right of Privacy, rev. ed. New York: World Almanac Publications. 1981. An inexpensive, 37-page booklet that offers a timely, concise and clear summary of libel and privacy.

Sessler, Michael. "Communication Boards Create Atmosphere of Professionalism." Scholastic Editor. Vol. 57 (October 1977), pp. 18-19. Examines one means of encouraging responsibility.

"Some Teaching Strategies." Today's Education. Vol. 69 (February-March 1980), pp. 69-72. Suggested approaches to help students learn of practical applications of the First Amendment, prepared by staff members of the Constitutional Rights Foundation of Los Angeles.

Speaking of a Free Press: A Collection of Notable Quotations about Newspapers and a Free Press. 1974. This 24-page pamphlet is available from the American Newspaper Publishers Association Foundation, Washington, D.C.

"SPLC Model Guidelines for Student Publications." Student Press Law Center Report. Winter 1978-79, pp. 33-34. This model includes sections on overall policy, responsibilities of student journalists, prohibited material, protected speech and prior review.

*Starr, Isidore. The Idea of Liberty: First Amendment Freedoms. St. Paul, MN: West Publishing Co. 1978. This 234-page book is a very good overview of freedoms of speech, press, assembly, petition and religion and an excellent resource for teachers. Discussion questions and activities based on facts from important court cases are useful teaching tools.

State Education Department booklets on student rights include the following: (Write your Department of Education to see if your state has such a booklet.)
Students and Schools: Rights and Responsibilities, Illinois Office of Education.
Guidelines for Students Rights and Responsibilities, New York State Education Department.
A Recommended Guide to Students' Rights and Responsibilities in Michigan, Department of Education.
Students' Rights, South Carolina Department of Education.

Staver, David A. "High School Freedom of the Press." The NASSP Bulletin. Vol. 63 (January 1979), pp. 46-50. A timely discussion of the need for and content of publication guidelines.

Stevens, George E. "Faculty Tort Liability for Libelous Student Publications." Journal of Law and Education. Vol. 5, No. 3 (July 1976), pp. 307-316. Discusses problems the adviser faces while ensuring student journalists their constitutional rights.

_____ and John B. Webster. Law and the Student Press. Ames, IA: The Iowa State University Press. 1973. A 158-page examination of censorship, libel, obscenity, contempt, advertising regulation, copyright, access, distribution and other problems. Dated but has good appendices that include policy statements and distribution guidelines.

Trager, Robert. "Freedom of the Press in College and High School." Albany Law Review. Vol. 35, No. 2 (1971), pp. 161-181. A detailed examination of the Tinker case and court activity that preceded the US Supreme Court's 1969 ruling.

_____. "Recent Developments in Secondary Students' Press Rights." Paper presented to Secondary Education Divison of the Association for Education in Journalism convention in August 1976, College Park, MD.

*_____. Student Press Rights. DeKalb, IL: Journalism Education Association. 1974. An 84-page paperback that cites most of the cases that are the foundation of student press rights today. Chapters on background, development, particular circumstances, First Amendment limitations, administrative regulations and administrators' responsibilities provide a valuable overview.

_____ and Donna L. Dickerson. "A Ban on Prior Restraint in High Schools: The Aftermath of the Fujishima Decision." Paper presented at the Association for Education in Journalism convention August 1977 at Madison, WI. This paper concerns a study of the extent of prior restraint in high schools of Illinois, Wisconsin and Indiana, where the Seventh Circuit Court of Appeals has said prior restraint in the schools is unconstitutional.

Trager, Robert, and Bruce L. Plopper. "Public Forum Theory in the Educational Setting: From the Schoolhouse Gate to the Student Press." Paper presented to the Secondary Education Division at the Association for Education in Journalism convention in August 1978 at Seattle, WA. Argues for protection to student newspapers operating as forums for expression of ideas.

_____ and Ron Ostman. "Tools for Caging the Censorship Dragon." Scholastic Editor. February 1971, pp. 28-31. Includes model guidelines and model bylaws for a publications board.

Update. This publication by the American Bar Association offers useful topics on law-related education, from elementary school through college. See especially the Winter 1978 issue on "Freedom of Press on Trial," with articles on mock trials in the classroom, a historical look at the struggle for a free press and an article entitled "The Emerging Student Press."

Ward, Bill. The Student Journalist and Editorial Leadership. New York: Richards Rosen Press, Inc. 1969. Concerns the newspaper as a forum for ideas and discusses columns, polls, ethics, policies and responsibility.

Weiner, Lois. "Captive Voices: Are They Still?" Communication: Journalism Education Today. Vol. 12 (Spring 1979), pp. 4-7. An evaluation of response to the issues raised in Captive Voices, with suggestions about new concerns involving freedom of the student press.

Wiener, Mike. "The Right to Make Waves: Free Press in the High Schools." The Nation. January 28, 1978, pp. 82-84. Examines the struggle in California to pass legislation offering some protection for student journalists, by one of the teachers involved in that effort.

Woodring, Virginia. Laboratory Manual for Journalism in the Mass Media. Boston: Ginn and Company. 1970. A 172-page workbook that accompanies the Moyes and White text, including 10 pages of activities to accompany the "Social Responsibility of Journalists" chapter.

*Zuckman, Harvey L., and Martin J. Gaynes. Mass Communications Law in a Nutshell. St. Paul, MN: West Publishing Co. 1977. This small 431-page paperback is a bit dated in the technicalities of libel and open courtrooms, but otherwise is a readable discussion of print and broadcast law, with reference to appropriate cases. It is a useful teacher reference.

Audio-Visuals: Filmstrips

Communication: Impact on Society. Color. Two filmstrips with records or cassettes and program guide. Discusses meaning of and threats to credibility, concerns regarding confidentiality of sources and recent pressures on print and broadcast media. Available from Columbia Scholastic Press Association, Box 11, Central Mail Room, New York, NY 10027.

The First Amendment: Freedom of the Press. Color. Two filmstrips, 14 minutes each, with cassettes or records and a program guide. Looks at the origin and function of a free press, the conflict between the media and government, and the responsibility of a free press when rights conflict. 1977. By The Associated Press. Distributed by Prentice-Hall Media, 150 White Plains Rd., Tarrytown, NY 10591.

Free Press: A Need to Know the News. Color. Nine minutes with cassette, teacher's manual, six spirit masters. Discusses the principles of free press and its origins. 1976. Pathescope Educational Media, 71 Weyman Ave., New Rochelle, NY 10802.

Free Speech and Press. 35 minutes. With teacher's guide, source books, tests and spirit masters. Looks at First Amendment principles, the role of free speech, censorship, picketing, contempt of court, access to the news, obscenity, libel and privacy. 1974. Xerox Films, Dept. of Xerox Educational Publications, 245 Long Hill Rd., Middletown, CT. 06457.

Press Freedom Yesterday and Today. B&W, 40 frames. Examines history and significance of free speech in a democracy. 1975. Visual Education Consultants, Box 52, 2066 Helena St., Madison, WI 53701.

The Student Press: A Case Study. Color. 35 minutes. This dramatizes the conflict between students wanting to sell an unauthorized school newspaper and school officials who suspend the students for violating school rules. Viewers are left to discuss and resolve the issue after the film shows parents taking the issue to court. 1972. Guidance Associates, Communications Park, Box 300, White Plains, NY 10602.

Your Freedom and the First Amendment. Color. Six 20-minute filmstrips with record or cassette. A history of freedoms of press, speech, assembly and religion and the battle to keep those freedoms. 1976. Educational Enrichment, 110 S. Bedford Rd., Mt. Kisco, NY 10549.

Your School Newspaper. 35 minutes. Six filmstrips and six cassettes with adviser's guide, stylebook, spirit masters. (1) The staff, (2) News and how to get it, (3) Writing and editing, (4) Going to press, (5) Advertising and distribution, and (6) Freedom and responsibility. 1975. Pathescope Educational Media and The Associated Press, 71 Weyman Ave., New Rochelle, NY 10802.

Audio-Visuals: Films

Censorship: A Question of Judgment. Color. 5 minutes. Film dramatizes the disagreement a principal has with a high school reporter who wants to publish a pciture of a student fight. Contrasting views are offered, but the question is left unresolved. 1964. National Film Board of Canada, 1251 Avenue of the Americas, New York, NY 10020.

Dear Lovey Hart: I Am Desperate. Color. 32 minutes. Part of the Afterschool Specials Series, this dramatization concerns a high school student who writes an advice column for the school newspaper and has to learn about responsibility when some of her advice gets her into trouble. 1977. Teacher's guide included. Walt Disney Educational Media Co., 500 S. Buena Vista St., Burbank, CA 91521.

The Federal Communications Commission. B&W. 15 minutes. Describes the function of the FCC, problems it has to resolve, and the structure and responsibility of this regulator of the broadcast media. 1963. McGraw-Hill Book Co., 1221 Avenue of the Americas, New York, NY 10020.

Free and Responsible Press. 20 minutes. This drama depicts the dilemma an editor faces when deciding whether to print a story that will bring grief to a prominent community member. Meant to prompt discussion of ethical concerns. 1962. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

Free Press/Fair Trial. B&W. 30 minutes. From WNET's "Behind the Lines" series, this report concerns the dilemma of balancing two constitutional rights. The roles of reporters, editors, police and attorneys are discussed and the Sheppard, Estes and Oswald cases are dealt with. 1973. Indiana University, Audio-Visual Center, Bloomington, IN 47401.

Free Press v. Fair Trial: The Sheppard Case. Color. 27 minutes. This film consists entirely of documentary materials regarding the 1966 Supreme Court case--newspaper articles, TV videotapes and newsreel interviews with those involved. 1969. Encyclopedia Brittanica Educational Corp., 425 N. Michigan Ave., Chicago, IL 60611.

Free Speech for Whom? Color. 15 minutes. This segment from the "60 Minutes" program has a discussion guide for its look at a free speech issue--whether all subjects and speakers have the right to be heard. Dr. William Shockley, who believes that Blacks are genetically inferior, is the focus of the piece. 1976. CBS News, 383 Madison Ave., New York, NY 10017.

Freedom of Speech. Color. 20 minutes. Examines the conflict between the First and Sixth Amendments and why free speech is not an absolute right. Shows a court case with defendant charged with disturbing the peace and inciting a riot via his anti-semitic views. Both sides are presented and the viewer is left to decide who is right. 1970. BFA Educational Media, 2211 Michigan Ave., Santa Monica, CA 90404.

Freedom of the Press. 17 minutes. A portrayal of the John Peter Zenger trial. 1950. National Audio-Visual Center, 4205 Suitland Rd., Suitland, Washington D.C. 20023.

Freedom of the Press. Color. 23 minutes. The viewer is left to resolve the conflict when a reporter is subpoenaed by a grand jury and told to reveal his sources. 1973. BFA Educational Media, 2211 Michigan Ave., Santa Monica, CA 90404.

The First Amendment. Color. 12 minutes. Former Senator Sam Ervin, Jr., who headed congressional hearings during the Watergate investigation, discusses the First Amendment. 1975. Counselor Films, Inc., 2100 Locust St., Philadelphia, PA 19103.

The First and Essential Freedom. 52 minutes. Color. Discusses the press/government relationship and the First Amendment with regards to Watergate, the Vietnam War, the Pentagon Papers, censorship, disclosure of sources, and the relationship between presidents and the media. 1973. With teacher's guide. Xerox Films, Dept. of Xerox Educational Publications, 245 Long Hill Rd., Middletown, CT 06457.

The First Freedom. Color. 22 minutes. Examines the role of the journalist in dealing with government and offers historical background on the significance of the First Amendment. Contrasts the press in the small town with the national media. 1974. The Associated Press, 2021 K St. N.W., Washington, D.C. 20006.

Mightier than the Sword: Zenger and Freedom of the Press. 20 minutes. Concerns the John Peter Zenger trial, which set the tone for freedom of press in America and the defense of truth in libel cases. 1962. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

Permissiveness, Ethics and Credibility in the Media. 40 minutes. Hal Buell, executive newsphoto editor of The Associated Press, analyzes standards of taste and ethics in photojournalism. His comments and examples focus on where the audience's right to know ends and the individual's right of privacy begins. Also touches responsibility of journalists to consider audience reactions and expectations. Based on Buell's presentation to 1975 Picture Editing Workshop at Indiana University. Foellinger Learning Lab, Indiana University, Bloomington, IN 47405.

Six Hours to Deadline: A Free and Responsible Press. 20 minutes. Looks at the ethical dilemma of a small-town editor who must decide whether to print a story that may hurt a local person. 1955. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

The Speaker...A Film About Freedom. Color. 42 minutes. With 32-page discussion guide. A drama about a university professor invited to speak in a high school about his theories of genetic inferiority of Blacks. The student Current Events Committee that invited the speaker gets pressure from the community to reconsider, but refuses, and the school board president then cancels the speech. Film is designed to prompt discussion of constitutional protection for unpopular topics. 1977. American Library Association, 50 E. Huron St., Chicago, IL 60611.

Zenger and Freedom of the Press. 20 minutes. Introduces the history of journalism and the First Amendment. 1962. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

Audio-Visuals: Videotape

Fair Trial/Free Press. 60 minutes. Abe Rosenthal of the New York Times; Judge Ernst John Watts, dean of the National College of State Judiciary; and Judge Paul H. Roney, chairman of the American Bar Association Committee on Fair Trial and Free Press, discuss "gag orders" and proposed guidelines for pretrial and trial news coverage. 1976. Foellinger Learning Lab, Indiana University, Bloomington, IN 47405.

Audio-Visuals: Audiotapes

Newsman's Privilege. 27 minutes. Concerns press shield laws, self-incrimination, guidelines for reporters, federal vs. state control and the First Amendment. 1973. Pacifica Tape Library, 5316 Venice Blvd., Los Angeles, CA 90019.

The Public's Right to Know. 27 minutes. Jack Anderson, syndicated columnist, discusses classification of information, the Freedom of Information Act, and trends in government secrecy. Center for Cassette Studies, 8110 Webb Ave., North Hollywood, CA 91605.

The Responsible Press. 28 minutes. Magazine and newspaper editors discuss limits on press freedom, especially concerning violent, sexually oriented or libelous material. Center for Cassette Studies, 8110 Webb Ave., North Hollywood, CA 91605.

The Responsibilities of the Press. 30 minutes. British journalist outlines his views on the obligations of a free press and the dangers a newspaper can create. Center for Cassette Studies, 8110 Webb Ave., North Hollywood, CA 91605.